

ARKANSAS MOTOR VEHICLE COMMISSION

Enabling Laws

Act 2311 of 2005

Act 388 of 1975 as amended. A.C.A. § 23-112-101 et seq.

History and Organization

The Arkansas Motor Vehicle Commission, funded by special revenue, was created under Act 388 of 1975 by the Seventieth General Assembly of the Arkansas Legislature in Regular Session. Rule I, Rule II and Regulation I were adopted and made part of the act on July 1, 1976 in accordance with the Administrative Procedures Act. In enacting Act 388 of 1975, the Legislature felt a need to exercise the state's police power to ensure a sound system of distributing and selling new motor vehicles through licensing and regulating the manufacturers, distributors, their branch offices and representatives and franchised dealers and salesmen operating within the State of Arkansas. In adopting Rule I and II, the Commission's general organization and hearing procedures were outlined. Regulation I, now Rule 3, is the Commission's attempt to define false and misleading advertising, classified as unauthorized acts under Subsection A, Section 5 in Act 300 of 1975. Act 838 of 1977 was enacted by the Seventy-First General Assembly in Regular Session. Act 838 of 1977 was approved by the Legislature in order to allow the Commission to seek injunctions to prevent violations of the Arkansas Motor Vehicle Commission Act or any Rule or Regulation subsequently adopted.

The objectives of the Arkansas Motor Vehicle Commission, under current statutory authorization, are to administer the requirements connected with the distribution of motor vehicles within the State of Arkansas in a fair and impartial manner, while being consistent in its interpretation of the persons required to be licensed. Act 388 of 1975 affords protection for the franchised dealer relative to attempts by manufacturers and distributors to coerce, intimidate, terminate or threaten to terminate without due cause contractual agreements in existence between the two parties.

Consumer complaints on vehicles covered by the original factory warranty are received and processed in accordance with the statutory authority given the Commission under Act 388 of 1975, Section 6A (10), which provides grounds for suspension or revocation of licenses when warranty responsibilities are not fulfilled by manufacturers and distributors to the detriment of the public welfare.

Acts 620, 645, and 633 of 1987 reduced the number of wheels under the Motor Vehicle Commission Law definition motor vehicles from four (4) to two (2) which required dealers selling new Motorcycles and ATVs to be licensed and regulated by the Commission. Act 1058 of 1985 required the Motor Vehicle Commission to license and regulate all used car dealers and salesmen in the State. Act 169 of 1989 removed the used car dealers and salesmen from the Commission's legal jurisdiction. Act 568 of 1995 removed Wholesalers and Auto Auctions from the Commission's published Act and allowed the Commission's first fee increase since inception.

Act 1154 of 1997 permitted reciprocity with Motor Vehicle Commissions of other states with regard to Motor Vehicle Shows, provided procedures concerning warranty agreements and clarified various

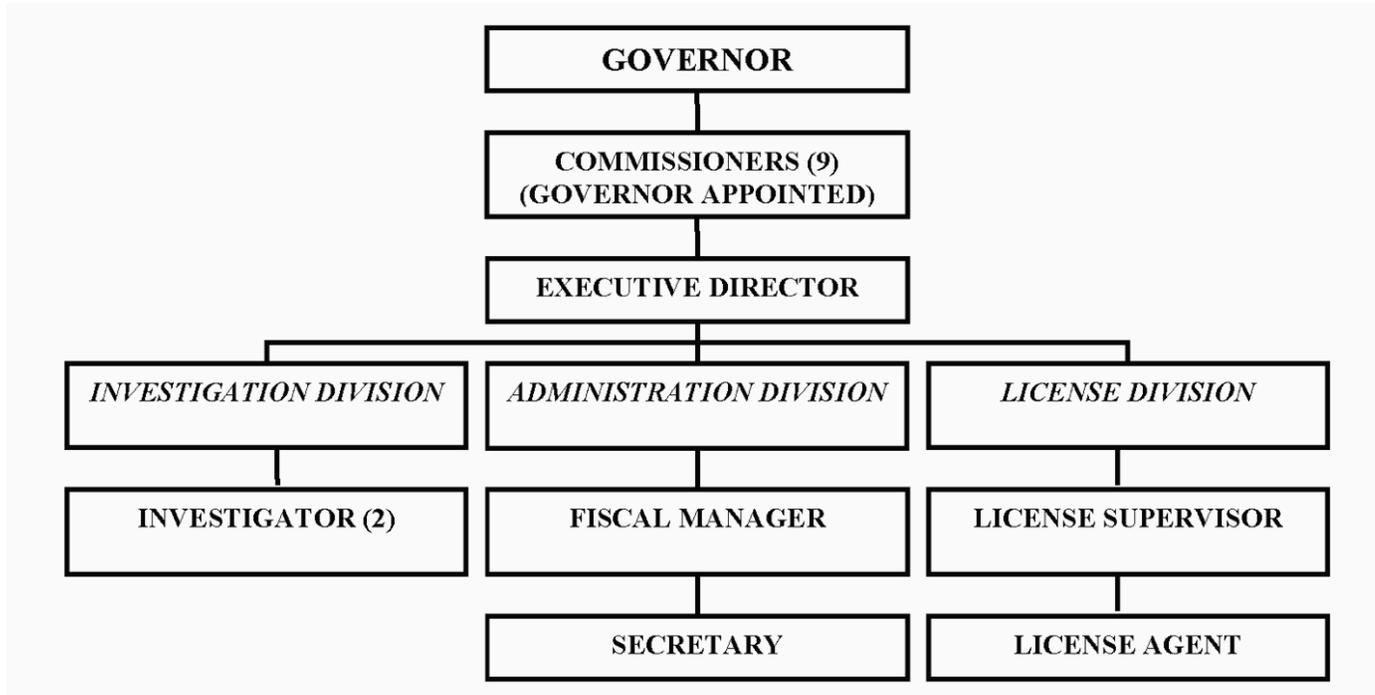
definitions.

Act 1042 of 1999 primarily amended Subchapter 4, pertaining to unlawful practices by Manufacturers/Distributors.

Act 1053 of 2001 added the definition of ATVs and clarified various definitions. Act 1600 of 2001 provided for motor vehicle dealer Documentary Fees and authorized the Commission to promulgate rules and regulations to implement, enforce and administer the enabling section.

Act 1722 of 2003 authorized the Commission to promulgate rules and regulations to set a reasonable limit on the amount to be charged for a Documentary Fee. Act 1098 of 2003 amended the definition of an ATV, and added motor scooters to the definition of a motor vehicle. Act 1027 of the Second Extraordinary Session of 2003 added Section 106 to Subchapter 1 of the Arkansas Motor Vehicle Commission Act, enabling enforcement by the Commission under certain conditions.

Act 1687 of 2005 established procedures for the delivery prior to sale of a motor vehicle to a consumer.



Agency Commentary

Funding for this special revenue appropriation is derived solely from license fees collected from new motor vehicle manufacturers, distributors, factories and branches, as well as representatives, dealers, sales personnel and motor vehicle lessors. The Commission receives no general revenue funds.

The Commission's licensee base continues to increase in number, thus increasing the workload and responsibilities of staff. Additionally, in order to meet Agency goals and to fulfill the Mission Statement requirements, the following increases are required to accommodate: 1) Consumer protection and awareness through education; 2) Dealer protection, education, regulation and

enforcement; 3) Manufacturer/Distributor/Converter education, regulation and enforcement; 4) Processing of all complaints received, inclusive of complete investigations; 5) Maintenance of the Arkansas Motor Vehicle Commission (AMVC) web page; 6) Prevention/Investigation of all false or misleading advertising schemes; and 7) Online licensing.

Increase in Operating Expenses includes the following:

- Rent increase each year of the biennium to support sufficient functional space for current staff and additional positions appropriated during the 2005 Legislative Session. These positions increased the Commission's staff by 75%;
- Education supplies and printing in order for the Commission to initiate two significant programs. One program will focus on public education, while the second will focus on training opportunities for the Commission's licensee base; and
- Subscription purchase and development of a new agency licensing database which will facilitate online renewal. Online renewal will expedite the renewal process and more efficiently serve the licensee base, many of whom are accustomed to performing business functions online.

Increase in Capital Outlay for FY09 includes:

- Replacement of a vehicle in accordance with the State Vehicle Program.

The Commission respectfully requests consideration for the following Agency fiscal requests:

- A line item increase in Operating expenses that totals \$63,518 - FY08/\$48,553 - FY09
- A capital outlay line item request of \$13,760 - FY09.

Kind consideration and approval of this appropriation request will allow the Arkansas Motor Vehicle Commission to continue service to the consumers and dealers in Arkansas.

Audit Findings

DIVISION OF LEGISLATIVE AUDIT
AUDIT OF :
ARKANSAS MOTOR VEHICLE COMMISSION
FOR THE YEAR ENDED JUNE 30, 2005

<u>Findings</u>	<u>Recommendations</u>
None	None

Employment Summary

	Male	Female	Total	%
White Employees	2	4	6	86 %
Black Employees	1	0	1	14 %
Other Racial Minorities	0	0	0	0 %
	Total Minorities		1	14 %
	Total Employees		7	100 %

Publications

A.C.A 25-1-204

Name	Statutory Authorization	Required for		# Of Copies	Reason (s) for Continued Publication and Distribution
		Governor	General Assembly		
None	N/A	N	N	0	N/A

Agency Position Usage Report

FY2004-2005						FY2005-2006						FY2006-2007					
Authorized in Act	Budgeted			Unbudgeted	% of Authorized Unused	Authorized in Act	Budgeted			Unbudgeted	% of Authorized Unused	Authorized in Act	Budgeted			Unbudgeted	% of Authorized Unused
	Filled	Unfilled	Total	Total			Filled	Unfilled	Total	Total			Filled	Unfilled	Total	Total	
4	4	0	4	0	0.00%	7	6	1	7	0	14.29%	7	7	0	7	0	0.00%

Analysis of Budget Request

Appropriation: 048 - Arkansas Motor Vehicle Commission

Funding Sources: SAB - Arkansas Motor Vehicle Commission Fund

The Arkansas Motor Vehicle Commission (AMVC) uses the resources authorized in this appropriation to regulate and license new car manufacturers, dealers, and salesmen doing business in Arkansas. Funding for this special revenue appropriation is derived from license fees paid by automobile salesmen, dealers, manufacturers, and manufacturers' representatives pursuant to Arkansas Code § 23-112-101 et seq.

A cost of living increase is not incorporated in Base Level pending the outcome of the Classification and Compensation Study. The Base Level request of \$270,715 for FY08 and \$270,715 for FY09 for Regular Salaries does include board member Stipend payments. FY07 salary levels have been held flat each year for all incumbents. Personal Services Matching may reflect increases in the Base Level due to the Social Security Tax maximum income limit and certain increases in Worker's Compensation and Unemployment Tax rates. Personal Services Matching also includes a \$30 increase in the monthly contribution for State employee's health insurance for a total State match per budgeted employee of \$350 per month.

The Commission is requesting increases in Operating Expenses of \$85,118 in FY08 and \$65,653 in FY09. Of these amounts, the Agency is requesting a reallocation of \$21,600 in FY08 and \$17,100 in FY09 within the detail of the Operating Expenses line item that will result in a net increase of \$63,518 in FY08 and \$48,553 in FY09. These increases include \$19,965 per fiscal year for office space rental and \$3,000 in FY08 only for office supplies. The Commission is considering leasing a larger office space in order to accommodate its employees. Additional positions appropriated during the 2005 Regular Session has resulted in the need for additional space and supplies/equipment. An increase of \$17,500 per fiscal year for both printing and educational supplies and materials is requested to initiate two (2) training programs: the Consumer Education Program and the Dealer Education Program. The Consumer Education Program will consist of printed materials for newly licensed drivers and adults in the market to purchase vehicles. The content will include a glossary, finance terms, rights of consumers, common misconceptions about the car buying process, information pertaining to the Lemon Law, and a contact list of relevant telephone numbers. This information will be available at various locations including schools, motor vehicle dealerships, DFA Revenue Offices, and State Police field offices. The Dealer Education Program will consist of no more than six (6) one-day conferences to be held in various regions of the State. This program is for the AMVC licensee base and those who would like to become licensed to sell motor vehicles in Arkansas. The program will cover the rules and regulations of the industry, with special emphasis placed on advertising.

The AMVC is requesting an increase of \$6,875 in Network Services Expenses for FY08 to redesign the current AMVC website to support online renewals. An increase of \$9,590 in Software/Licenses for FY08 is requested for a one-year set-up fee to create a licensee database. This fee includes, but is not limited to, training employees, development of reports, and data conversion. The database will allow the AMVC to expedite online renewals and processes, and more efficiently serve the licensee base. An additional increase in Software/Licenses of \$10,688 per fiscal year will be used to

pay for a two-year database subscription for four (4) users.

An additional request of \$13,760 in Capital Outlay for FY09 will be used to replace one vehicle currently assigned to the AMVC.

A decrease in the need for professional related services has resulted in a requested reduction of \$4,661 for both fiscal years.

The Executive Recommendation provides for Agency Request with the exception of Operating Expenses which is recommended at Base Level.

Appropriation

Appropriation: 048 Arkansas Motor Vehicle Commission
Funding Sources: SAB - Arkansas Motor Vehicle Commission Fund

Historical Data

Agency Request and Executive Recommendation

Commitment Item		2005-2006	2006-2007	2006-2007	2007-2008			2008-2009		
		Actual	Budget	Authorized	Base Level	Agency	Executive	Base Level	Agency	Executive
Regular Salaries	5010000	221,095	270,715	270,958	270,715	270,715	270,715	270,715	270,715	270,715
#Positions		7	7	7	7	7	7	7	7	7
Personal Services Matching	5010003	75,307	88,447	77,819	91,046	91,046	91,046	91,046	91,046	91,046
Operating Expenses	5020002	118,690	163,697	163,697	163,697	227,215	163,697	163,697	212,250	163,697
Conference & Travel Expenses	5050009	310	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000
Professional Fees	5060010	3,141	9,661	9,661	9,661	5,000	5,000	9,661	5,000	5,000
Data Processing	5090012	0	0	0	0	0	0	0	0	0
Capital Outlay	5120011	60,454	35,000	35,000	0	0	0	0	13,760	13,760
Total		478,997	572,520	562,135	540,119	598,976	535,458	540,119	597,771	549,218
Funding Sources										
Fund Balance	4000005	2,313,770	2,475,138		2,602,618	2,602,618	2,602,618	2,693,642	2,693,642	2,719,903
Special Revenue	4000030	640,365	700,000		631,143	690,000	631,143	612,348	670,000	612,348
Total Funding		2,954,135	3,175,138		3,233,761	3,292,618	3,233,761	3,305,990	3,363,642	3,332,251
Excess Appropriation/(Funding)		(2,475,138)	(2,602,618)		(2,693,642)	(2,693,642)	(2,698,303)	(2,765,871)	(2,765,871)	(2,783,033)
Grand Total		478,997	572,520		540,119	598,976	535,458	540,119	597,771	549,218

FY06 Actuals exceed Authorized in Capital Outlay due to \$85,000 being authorized and budgeted in FY06 as compared to \$35,000 in FY07.

Change Level by Appropriation

Appropriation: 048-Arkansas Motor Vehicle Commission
Funding Sources: SAB - Arkansas Motor Vehicle Commission Fund

Agency Request

Change Level		2007-2008	Pos	Cumulative	% of BL	2008-2009	Pos	Cumulative	% of BL
BL	Base Level	540,119	7	540,119	100.0	540,119	7	540,119	100.0
C01	Existing Program	22,965	0	563,084	104.2	19,965	0	560,084	103.7
C02	New Program	35,000	0	598,084	110.7	48,760	0	608,844	112.7
C03	Discontinue Program	(26,261)	0	571,823	105.8	(21,761)	0	587,083	108.7
C08	Technology	27,153	0	598,976	110.9	10,688	0	597,771	110.6

Executive Recommendation

Change Level		2007-2008	Pos	Cumulative	% of BL	2008-2009	Pos	Cumulative	% of BL
BL	Base Level	540,119	7	540,119	100.0	540,119	7	540,119	100.0
C01	Existing Program	0	0	540,119	100.0	0	0	540,119	100.0
C02	New Program	0	0	540,119	100.0	13,760	0	553,879	102.5
C03	Discontinue Program	(4,661)	0	535,458	99.1	(4,661)	0	549,218	101.6
C08	Technology	0	0	535,458	99.1	0	0	549,218	101.6

Justification

C01	The Arkansas Motor Vehicle Commission (AMVC) is requesting a biennial increase of \$39,930 (\$19,965 per fiscal year) for office space rental. An additional \$3,000 is being requested in office supplies due to an increase in staff.
C02	An increase of \$35,000 (\$17,500 per fiscal year) for printing and \$35,000 (\$17,500 per fiscal year) for educational supplies and materials is requested to initiate two (2) significant training programs: the Consumer Education Program and the Dealer Education Program. An additional request of \$13,760 in Capital Outlay for fiscal year 2009 will be used to replace one vehicle currently assigned to the AMVC.
C03	A reduction in expenses of \$26,261 for FY08 and \$21,761 for FY09 are due to recent trends in the motor vehicle industry and a decrease in the need for professional related services.
C08	An increase of \$6,875 in Network Services Expenses for FY08 is requested to redesign the current AMVC website to support online renewals. The AMVC is requesting additional appropriation in Software/Licenses of \$9,590 in FY08 for a one year set-up fee. An additional increase in Software/Licenses of \$21,376 (\$10,688 per fiscal year) in Software/Licenses is requested to create a licensee database.